

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL NO. 1:04CV214

**RAM MOUNTAIN CONTRACTING,)
INC.,)**

Plaintiff,)

Vs.)

ORDER OF TRANSFER

**JAMES R. HODGSON, JR.; JAMES A.)
FRIAS; RAM MECHANICAL, INC.;)
and HODGSON-FRIAS ENTERPRISES,)
INC.,)**

Defendants.)

THIS MATTER is before the Court on the Plaintiff's objections to the Memorandum and Recommendation of U.S. Magistrate Judge Dennis L. Howell.

A district court conducts a *de novo* review of those portions of a memorandum and recommendation to which specific objections are filed. **28 U.S.C. § 363(b)**. Plaintiff here made only a general objection referring to the pleadings previously filed in the matter and, in essence, asked this Court to conduct a *de novo* review of the entire record. Neither specific portions of the record nor any case law is cited.

"Parties filing objections must specifically identify those findings objected to. Frivolous, conclusive or general objections need not be considered by the district court." *Battle v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987) (internal quotations omitted). "A general objection to the entirety of the magistrate's report has the same effects as would a failure to

object. The district court's attention is not focused on any specific issues for review, thereby making the initial reference to the magistrate useless." *Howard v. Sec'y of HHS*, 932 F.2d 505, 509 (6th Cir. 1991). Boilerplate objections without any citation to case law or the record do not warrant *de novo* review. *Wells v. Shriners Hosp.*, 109 F.3d 198, 200 (4th Cir. 1997). "In this Circuit, *de novo* review is unnecessary when a party makes general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations." *Hyatt v. Town of Lake Lure*, 314 F.Supp.2d 562, 580 (W.D.N.C. 2003), *aff'd*, 114 Fed. Appx. 72 (4th Cir. 2004) (internal quotations omitted); *see also*, *Lockert v. Faulkner*, 843 F.2d 1015, 1019 (7th Cir. 1988).

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the Defendant's motion to transfer venue be allowed and the case transferred to the Eastern District of California.

IT IS, THEREFORE, ORDERED that the Defendants' motion to transfer venue is **ALLOWED**, and this case is hereby transferred to the Eastern District of California.

IT IS FURTHER ORDERED that the Defendants' alternative motions to dismiss are hereby **DENIED** as moot.

Signed: May 27, 2005

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', written over a horizontal line.

Lacy H. Thornburg
United States District Judge

